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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,809	03/20/2001	Thomas D. Petite	81607-1042	1207

7590

09/11/2003

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EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,809

Applicant(s)

PETITE, THOMAS D.

Examiner

Michael P Nghiem

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

The Amendment filed on July 11, 2003 has been acknowledged.

Terminal Disclaimer

1. The terminal disclaimer filed on July 11, 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6,028,522 has been reviewed and is NOT accepted.

2. The application/patent being disclaimed has been improperly identified since the number used to identify the application being disclaimed is incorrect. The correct number is 09/812,809.

3. An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761

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(CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321¹ may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. US 6,028,522 (Petite). Although the conflicting claims are not identical, they are not patentably distinct from each other because even though Petite does not claim a communication network, it would have been obvious to one of ordinary skill in the art to rearrange the telecommunications interface between the central processing unit and the light sensors in order to create a network for the purpose of communication between the light sensors and the central processing unit.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cerami et al. (US 5,471,201).

Cerami et al. discloses all the claimed features of the invention including:

- a system (1) to monitor the level of light in an area (Fig. 1) comprising:
 - at least one sensor (6) that measures the level of light in a lighted area (Fig. 1);
 - at least one transceiver (transceivers of radio link, column 4, lines 38-40) that communicates information regarding the level of light in the lighted area, via a communications network (Fig. 1);
 - a central system (8) that communicates with the transceiver via the communications network (Fig. 1); and a network (interface to 8) that allows access to the central system (Fig. 1);
 - the lighted area is one selected from the group consisting of a parking structure, a building, a residence, an underground facility, and a street (column 1, lines 16-17);
 - a sensor is one selected from a group consisting of a light sensor, and a camera sensor (light sensor 6);
 - the central system comprises of a memory and a processor (computer of 8, Fig. 1);
 - the communications network comprises of a Public Service Telephone Network (column 5, line 30);

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- the communication network communicates with another communication network via a gateway (two branches of networks are separated by nodes, Fig. 1);
- a central processing unit and a memory communicates with the sensor and the transceiver (Fig. 1);
- the transceiver communicates information with a transceiver (radio transceiver of 8) in another lighted area, wherein the communication between the transceivers form an RF cloud (radio link);
- a person who is a technician or a customer, can access the central system (computer of 8 can be accessed by a human);
- the RF cloud forms a backbone that allows a transceiver in a remote lighted area to communicate with the central system via the communications network (Fig. 1);
- a first logic, the first logic sensing the level of light in a lighted area (via 6);
- a second logic, the second logic communicating the level of light in the lighted area, via a communications network, to a central system (via radio link);
- a third logic, the third logic accessing the central system via a network (1).

Allowable Subject Matter

6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

7. The combination as claimed wherein a light monitoring system comprising an Internet network is not disclosed, suggested, or made obvious by the prior art of record.

Response to Arguments

8. Applicant's arguments filed on July 11, 2003 have been fully considered but they are not persuasive.

With respect to the 35 USC 102 rejections of claims 1 and 12-14, Applicants argue that Cerami does not teach a network that allows access to the central system.

Examiner's position is that Cerami teaches a network (interface to 8) that allows access to the central system (Fig. 1). For example, a user can access the central system (8) via a keyboard (Fig. 1).

With respect to claim 9, Applicants argue that Cerami does not teach or suggest that a person who is a technician or a customer, can access the central system.

Examiner's position is that a customer (user) can access the central system (8) via a keyboard (Fig. 1).

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With respect to claims 15, 16, Applicants argue that the alleged transceivers (7) do not communicate the level of light to a second transceiver. Rather, the transceivers (7) merely communicate with the central station (8).

Examiner's position is that Cerami teaches a first transceiver (7) that communicates the level of light in the lighted area to a second transceiver (transceiver of 8).

Applicants further argue that Cerami fails to teach or suggest an interface that communicates the level of light received by the first transceiver to a central system by a network.

Examiner's position is that Cerami teaches an interface (radio link) that communicates the level of light received by the first transceiver to a central system by a network (column 4, lines 38-43).

Applicants further argue that Cerami fails to teach or suggest a first transceiver that communicates the level of light in the lighted area to a second transceiver to create an RF cloud that can be used to directly communicate the level of light to a central system. Examiner's position is that Cerami teaches a first transceiver (7) that communicates the level of light in the lighted area to a second transceiver (transceiver of 8) to create an RF cloud (radio frequency link, column 4, line 39) that can be used to directly communicate the level of light to a central system (column 4, lines 38-43).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

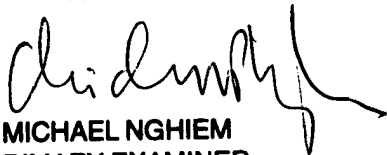
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

A handwritten signature in black ink, appearing to read 'Michael Nghiem', with a stylized flourish at the end.

MICHAEL NGHIEM
PRIMARY EXAMINER

Michael Nghiem

September 9, 2003